

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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May 6, 2010

Opinion No. 10-64

Compensation for Interpreters for Indigent Criminal Defendants

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**QUESTIONS**

1. If an interpreter is appointed for an indigent defendant, is the county required to pay the interpreter's fee and then seek reimbursement from the indigent defense fund, or does the interpreter file a claim for services directly to the Administrative Office of the Courts as administrator of the indigent defense fund?

2. If the county is required to pay the interpreter directly and then seek reimbursement from the fund, may the county withhold payment from the interpreter until it receives payment from the indigent defense fund?

**OPINIONS**

1. Generally, claims for compensation of interpreters are submitted by the interpreter directly to the Administrative Office of the Courts (AOC). A county is not required to seek reimbursement from the AOC for interpreter services unless the county decides to "utilize credentialed interpreters on a full-time or part-time basis." If a county chooses to do so, the county must contact the AOC about the method and amount of reimbursement. The AOC will reimburse the county for interpreter services pursuant to that agreement.

2. A county is not required to seek reimbursement from the AOC for interpreter services unless the county decides to "utilize credentialed interpreters on a full-time or part-time basis" and contacts the AOC to determine the method and amount of reimbursement. Questions concerning compensation will depend upon the agreement between the county and the AOC and the agreement between the county and the interpreter. Therefore, this office cannot render a general opinion concerning whether the county may withhold payment from the interpreter until it receives reimbursement from the AOC.

**ANALYSIS**

1. In a criminal proceeding, an interpreter may be appointed by the trial court pursuant to Tennessee Supreme Court Rule 42, Section 3. *See* Tenn. R. Crim. P. 28. "Reasonable costs

associated with an interpreter's services may be assessed against the indigent defense fund pursuant to Tennessee Supreme Court Rule 13 if the party is indigent and is involved in a proceeding in which he or she has a statutory or constitutional right to appointed counsel." *Id.*; *see* Tenn. Sup. Ct. R. 13, § 4(d). The rules governing reimbursement for interpreter services provide:

(9) Claims for compensation of interpreters and translators shall be submitted by interpreters to the AOC on forms provided by the AOC. The forms must be signed by either the court or counsel. The interpreter's submission to the AOC must also include a copy of the court's order appointing the interpreter/translator.

(10) To facilitate the prompt and efficient disposition of proceedings which involve individuals with LEP ["limited English proficiency"], counties may wish to utilize credentialed interpreters on a full-time basis. If a county does so, the AOC will reimburse the county for those services for which an interpreter would be entitled to compensation pursuant to this rule. The rate of compensation will depend upon the rate at which the county routinely compensates the interpreter, but under no circumstances will the compensation exceed the rates provided for in this rule. Counties wishing to be reimbursed for these expenses shall contact the AOC, which will determine in what amounts and by what method said reimbursement shall be made.

Tenn. Sup. Ct. R. 13, § 4(d)(9) and (10). Under these rules, depending upon the circumstances of a particular case, claims for compensation of interpreters may be submitted by the interpreter directly to the AOC or claims may be submitted by a county directly to the AOC pursuant to an agreement between the county and the AOC. A county is not required to seek reimbursement from the AOC for interpreter services unless the county decides to "utilize credentialed interpreters on a full-time or part-time basis" and contacts the AOC about the method and amount of reimbursement. If a county chooses to do so, the AOC will reimburse the county for the interpreters' services pursuant to the agreement reached with that county.

2. Pursuant to subsection (d)(10), cited previously, a county may "utilize credentialed interpreters on a full-time or part-time basis" and seek reimbursement for those services from the AOC pursuant to an agreement with the AOC. The rule provides that "[c]ounties wishing to be reimbursed for the expenses shall contact the AOC, which will determine in what amounts and by what method said reimbursement shall be made." *Id.* Because the rule grants the AOC discretion in determining the amount and method of reimbursement, the requirements imposed upon a county will depend upon the terms of a particular agreement between the county and the AOC. Additionally, the requirements with respect to compensation of interpreters utilized by a county will depend upon the nature and terms of the relationship between the county and the interpreter. Most importantly, whether the interpreter is a full-time employee, part-time employee, or an independent contractor will determine the county's obligations. For these reasons, this office cannot render a general opinion concerning whether the county may withhold payment from the interpreter until it receives reimbursement from the AOC.

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